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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/500,830

12/27/2004

Adrienne Jacqueline Jones

818,096

1384

24106 7590 01/12/2007
EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON, TX 77002

EXAMINER

PALO, FRANCIS T

ART UNIT

PAPER NUMBER

3644

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/500,830

Applicant(s)

JONES, ADRIANNE JACQUELINE

Examiner

Francis T. Palo

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 2, 6 and 8-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's **election** without traverse of Species IA2A (**Claims 1, 3-5 and 7**) in the reply filed on 10/25/06 is acknowledged.

Claims 2,6, and 8-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 10/25/06.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-5 and 7 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a), as obvious over Shogren (US 6,312,826) 2001.

Art Unit: 3644

Regarding **claim-1**:

The claim appears to be directed to an apparatus (tree shelter) and is replete with functional and desirous use language; as it has been held that claims directed to apparatus must distinguish from the prior art in terms of structure rather than functions, patentable consideration is given only to the recitation of 'a biodegradable fibrous mat covered with a degradable resin', as claimed.

Shogren '826 contemplates coated paper products having utility as agricultural mulches (col.-7, line 49 thereabout); as they can be rolled out in orchards for inhibiting weed growth and reducing insect damage, which is readable on the functional language of the instant claim ('formed into a roll' and 'can enclose at least a lower part of a plant).

Specifically, Shogren teaches intermeshed fibrous material formed by depositing biodegradable fibers (cellulosic material) into a layer and pressing into a mat, thus forming a biodegradable fibrous mat as claimed; Shogren also teaches treating with additives and coatings (col.-3, lines 24-45 thereabout), which may be applied to one or both surfaces or sides (col.-7, line-22 thereabout).

Finally, Shogren teaches degradable resin as the coating throughout the '826 patent (cross-linked drying oil treatments).

It is submitted therefore that Shogren anticipates a biodegradable fibrous mat covered with a degradable resin, capable of the intended use as claimed.

Art Unit: 3644

Regarding **claim-3**:

The discussion above regarding claim-1 is relied upon.

As discussed above Shogren teaches intermeshed fibrous material formed by depositing biodegradable fibers (cellulosic material) into a layer and pressing into a mat; Shogren does not specifically disclose plural layers as claimed.

Mats and specifically plant protectors employing plural layers are well known in the arts; it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have manufactured the mat of Shogren from a plurality of layers as claimed, for the known advantages of that feature.

Regarding **claim-4**:

The discussion above regarding claim-3 is relied upon.

As discussed above regarding claim-1; Shogren teaches treating with additives and coatings (col.-3, lines 24-45 thereabout), which may be applied to one or both surfaces or sides (col.-7, line-22 thereabout), as claimed.

Regarding **claims 5 and 7**:

Shogren teaches coating and/or impregnating with a treatment (first degradable resin; col.-3, lines 4-7 thereabout) and further teaches treatment with additives (col.-3, line-35 thereabout), which encompasses impregnating with a second degradable resin having a different rate of degradation than the outer coating.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McLean '783 teaches a tree guard made of decomposable material such as cardboard coated with wax or plastic, made from a flat sheet and rolled into a cylindrical shape.

JP 2003027723A teaches biodegradable polylactic acid group resin film laminated on paper or non-woven fabric.

Simmons '842 teaches an apparatus comprising plural layers of biodegradable kraft paper.

Mills '566 and '750 teaches plant protectors comprising sheets of treated cellulose as well as other materials.

Swine '290 and Gulin '682 teach plant protectors made from sheet material.

Bernstein '934 teaches forming natural polymeric sheet material provided with activating agents that migrate or move throughout the body of the sheet material.

Lovqvist '411 teaches a plant guard having an upper portion capable of decomposing and a lower portion capable of decomposing in a shorter period of time.

Art Unit: 3644

Gidge'145 teaches a resin encapsulated sheet material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 571-272-6907. The examiner can normally be reached on M-Tu., Th.-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Francis T. Palo

Francis T. Palo
Primary Examiner
Art Unit 3644